

108TH CONGRESS  
2D SESSION

# S. 2470

To enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2004

Mr. BOND (for himself, Mr. HARKIN, Mr. DURBIN, Mr. TALENT, Mr. GRASSLEY, Mr. COLEMAN, Mr. FITZGERALD and Mr. PRYOR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. FINDINGS.**

4       Congress finds that—

5               (1) in section 1103(a)(2) of the Water Re-  
6       sources Development Act of 1986 (100 Stat. 4225),  
7       Congress recognized the Upper Mississippi River  
8       System as “a nationally significant ecosystem and a  
9       nationally significant commercial navigation system”

1 and declared that the system “shall be administered  
2 and regulated in recognition of its several purposes”;

3 (2) inaction on construction of new locks will  
4 lead to economic decline, and inaction on implemen-  
5 tation of an enhanced ecosystem restoration pro-  
6 gram will lead to further environmental decline;

7 (3) the Upper Mississippi River and Illinois  
8 Waterway carry approximately 60 percent of the  
9 corn exports of the United States and 45 percent of  
10 the soybean exports of the United States, providing  
11 a significant positive balance of trade benefit for the  
12 Nation;

13 (4) the movement of more than 100,000,000  
14 tons of product supports 400,000 full- and part-time  
15 jobs in the United States, generating over  
16 \$4,000,000,000 in income and \$12,000,000,000 to  
17 \$15,000,000,000 in economic activity;

18 (5) Midwestern utilities use coal, the second  
19 largest category of cargo shipped on the Upper Mis-  
20 sissippi River System, to produce cost-efficient en-  
21 ergy;

22 (6) keeping the cost of transportation lower  
23 through competition between transportation modes  
24 is the United States farmer’s competitive advantage

1 in capturing future global growth in agricultural ex-  
2 ports;

3 (7) United States farm and trade policies work  
4 to open world markets and promote United States  
5 exports, and water resource policy has provided a  
6 low-cost transportation alternative to other modes;

7 (8) the Department of Agriculture projects that  
8 corn exports will grow 44 percent over the next dec-  
9 ade, with a  $\frac{1}{3}$  increase in growth exported through  
10 the Gulf of Mexico;

11 (9) those transportation savings—

12 (A) provide higher income to farmers and  
13 rural communities; and

14 (B) generate Federal and State taxes to  
15 support community activities, quality of life,  
16 and national benefits;

17 (10) the construction of new 1,200-foot locks  
18 and lock extensions will provide more than  
19 48,000,000 man-hours of employment over 10 to 15  
20 years;

21 (11) foreign competitors have worked over the  
22 last 10 years to improve foreign transportation in-  
23 frastructure to compete more effectively with United  
24 States production;

1           (12) the inland waterway transportation system  
2 moves 16 percent of the freight in the United States  
3 for 2 percent of the cost, including more than  
4 100,000,000 tons on the Upper Mississippi River  
5 System;

6           (13) the Department of Transportation projects  
7 that freight congestion on the roads and rails in the  
8 United States will double in the next 25 years and  
9 that water transportation will need to play an in-  
10 creasing role in moving freight;

11           (14) the movement of 100,000,000 tons on the  
12 river system in 4,400 15-barge tows out of harms  
13 way would require an equivalent of 4,000,000 trucks  
14 or 1,000,000 rail cars moving directly through our  
15 communities;

16           (15) econometric models are useful analytic  
17 tools to provide valuable information, but are unable  
18 to account for every market trend, development, and  
19 public policy impact;

20           (16) the current capacity of the Upper Mis-  
21 sissippi River System is—

22                   (A) declining by 10 percent annually be-  
23 cause of unplanned closures of a 70-year old in-  
24 frastructure; and

1 (B) reducing the potential for sustained  
2 growth;

3 (17) the current 600-foot lock system was de-  
4 signed for steamboats, at a time when 4,000,000  
5 tons moved on the Mississippi River and a total of  
6 2,000,000,000 bushels of corn were produced na-  
7 tionally, compared to today, when 100,000,000 to  
8 120,000,000 tons are shipped and the national pro-  
9 duction of corn exceeds 10,000,000,000 bushels;

10 (18) the 600-foot locks at Locks and Dam Nos.  
11 20, 21, 22, 24, and 25 on the Upper Mississippi  
12 River and LaGrange and Peoria on the Illinois Wa-  
13 terway are operating at 80 percent utilization and  
14 are unable to provide for or process effectively the  
15 volatile growth of traditional export grain markets;

16 (19) based on the current construction schedule  
17 of new locks and dams on the inland system, lock  
18 modernization will need to take place over 30 years,  
19 starting immediately, as an imperative to avoid lost  
20 export grain sales and diminished national competi-  
21 tiveness;

22 (20) the Corps of Engineers has been studying  
23 the needs for national investments on the Upper  
24 Mississippi River System for the last 15 years and

1 has based initial recommendations on the best avail-  
2 able information and science;

3 (21) the Upper Mississippi and Illinois Rivers  
4 ecosystem consists of hundreds of thousands of acres  
5 of bottomland forests, islands, backwaters, side  
6 channels, and wetlands;

7 (22) the river ecosystem is home to 270 species  
8 of birds, 57 species of mammals, 45 species of am-  
9 phibians and reptiles, 113 species of fish, and nearly  
10 50 species of mussels;

11 (23) more than 40 percent of migratory water-  
12 fowl and shorebirds in North America depend on the  
13 river for food, shelter, and habitat during migration;

14 (24) the annual operation of the Upper Mis-  
15 sissippi River Basin needs to take into consideration  
16 opportunities for ecosystem restoration;

17 (25) development since the 1930's has altered  
18 and reduced the biological diversity of the large flood  
19 plain river systems of the Upper Mississippi and Illi-  
20 nois Rivers;

21 (26) Congress recognizes the need for signifi-  
22 cant Federal investment in the restoration of the  
23 Upper Mississippi and Illinois River ecosystems;

24 (27) the Upper Mississippi River System pro-  
25 vides important economic benefits from recreational

and tourist uses, resulting in the basin’s receiving more visitors annually than most National Parks, with the ecosystems and wildlife being the main attractions; and

(28) the Upper Mississippi River System—

(A) includes 284,688 acres of National Wildlife Refuge land that is managed as habitat for migratory birds, fish, threatened and endangered species, and a diverse assortment of other species and related habitats; and

(B) provides many recreational opportunities.

**SEC. 2. ENHANCED NAVIGATION CAPACITY IMPROVEMENTS AND ECOSYSTEM RESTORATION PLAN FOR THE UPPER MISSISSIPPI RIVER AND ILLINOIS WATERWAY SYSTEM.**

(a) DEFINITIONS.— In this section:

(1) PLAN.—The term “Plan” means the preferred integrated plan contained in the document entitled “Integrated Feasibility Report and Programmatic Environmental Impact Statement for the UMR–IWW System Navigation Feasibility System” and dated April 29, 2004.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Army.

1           (3) UPPER MISSISSIPPI RIVER AND ILLINOIS  
 2 WATERWAY SYSTEM.—The term “Upper Mississippi  
 3 River and Illinois Waterway System” means the  
 4 projects for navigation and ecosystem restoration au-  
 5 thorized by Congress for—

6           (A) the segment of the Mississippi River  
 7 from the confluence with the Ohio River, River  
 8 Mile 0.0, to Upper St. Anthony Falls Lock in  
 9 Minneapolis-St. Paul, Minnesota, River Mile  
 10 854.0; and

11           (B) the Illinois Waterway from its con-  
 12 fluence with the Mississippi River at Grafton,  
 13 Illinois, River Mile 0.0, to T.J. O’Brien Lock in  
 14 Chicago, Illinois, River Mile 327.0.

15       (b) AUTHORIZATION OF CONSTRUCTION OF NAVIGA-  
 16 TION IMPROVEMENTS.—

17           (1) SMALL SCALE AND NONSTRUCTURAL MEAS-  
 18 URES.—At a cost of \$24,000,000 in funds from the  
 19 general fund of the Treasury, to be matched in an  
 20 equal amount from the Inland Waterways Trust  
 21 Fund (which is paid by private users), the Secretary  
 22 shall—

23           (A) construct mooring facilities at Locks  
 24 12, 14, 18, 20, 22, 24, and LaGrange Lock;



1 (B) provide switchboats at Locks 20  
2 through 25 over 5 years for project operation;  
3 and

4 (C) conduct development and testing of an  
5 appointment scheduling system.

6 (2) NEW LOCKS.—At a cost of \$730,000,000 in  
7 funds from the general fund of the Treasury, with  
8 an equal matching amount provided from the Inland  
9 Waterways Trust Fund (which is paid by the private  
10 users), the Secretary shall construct new 1,200-foot  
11 locks at Locks 20, 21, 22, 24, and 25 on the Upper  
12 Mississippi River and at LaGrange Lock and Peoria  
13 Lock on the Illinois Waterway.

14 (3) MITIGATION.—At a cost of \$100,000,000 in  
15 funds from the general fund of the Treasury, with  
16 an equal matching amount provided from the Inland  
17 Waterway Trust Fund (which is paid by private  
18 users), the Secretary shall conduct mitigation for  
19 new locks and small scale and nonstructural meas-  
20 ures authorized under paragraphs (1) and (2).

21 (c) ECOSYSTEM RESTORATION AUTHORIZATION.—

22 (1) OPERATION.—To ensure the environmental  
23 sustainability of the existing Upper Mississippi River  
24 and Illinois Waterway System, the Secretary shall,  
25 consistent with requirements to avoid any adverse

1 effects on navigation, modify the operation of the  
2 Upper Mississippi River and Illinois Waterway Sys-  
3 tem to address the cumulative environmental im-  
4 pacts of operation of the system and improve the ec-  
5 ological integrity of the Upper Mississippi River and  
6 Illinois River.

7 (2) ECOSYSTEM RESTORATION PROJECTS.—

8 (A) IN GENERAL.—The Secretary shall,  
9 consistent with requirements to avoid any ad-  
10 verse effects on navigation, carry out ecosystem  
11 restoration projects to attain and maintain the  
12 sustainability of the ecosystem of the Upper  
13 Mississippi River and Illinois River in accord-  
14 ance with the general framework outlined in the  
15 Plan.

16 (B) PROJECTS INCLUDED.—Ecosystem  
17 restoration projects may include—

- 18 (i) island building;
- 19 (ii) construction of fish passages;
- 20 (iii) floodplain restoration;
- 21 (iv) water level management (includ-  
22 ing water drawdown);
- 23 (v) backwater restoration;
- 24 (vi) side channel restoration;

- 1 (vii) wing dam and dike restoration
- 2 and modification;
- 3 (viii) island and shoreline protection;
- 4 (ix) topographical diversity;
- 5 (x) dam point control;
- 6 (xi) use of dredged material for envi-
- 7 ronmental purposes;
- 8 (xii) tributary confluence restoration;
- 9 (xiii) spillway modification to benefit
- 10 the environment;
- 11 (xiv) land easement authority; and
- 12 (xv) land acquisition.

13 (C) COST SHARING.—

14 (i) IN GENERAL.—Except as provided  
15 in clause (ii), the Federal share of the cost  
16 of carrying out an ecosystem restoration  
17 project under this paragraph shall be 65  
18 percent.

19 (ii) EXCEPTION FOR CERTAIN RES-  
20 TINATION PROJECTS.—In the case of a  
21 project under this paragraph for ecosystem  
22 restoration, the Federal share of the cost  
23 of carrying out the project shall be 100  
24 percent if the project—

1 (I) is located below the ordinary  
2 high water mark or in a connected  
3 backwater;

4 (II) modifies the operation or  
5 structures for navigation; or

6 (III) is located on federally  
7 owned land.

8 (iii) NONGOVERNMENTAL ORGANIZA-  
9 TIONS.—Nongovernmental organizations  
10 shall be eligible to contribute the non-Fed-  
11 eral cost-sharing requirements applicable  
12 to projects under this paragraph.

13 (D) LAND ACQUISITION.—The Secretary  
14 may acquire land or an interest in land for an  
15 ecosystem restoration project from a willing  
16 owner through conveyance of—

17 (i) fee title to the land; or

18 (ii) a flood plain conservation ease-  
19 ment.

20 (3) SPECIFIC PROJECTS AUTHORIZATION.—

21 (A) IN GENERAL.—Subject to subpara-  
22 graph (B), the ecosystem restoration projects  
23 described in paragraph (2) shall be carried out  
24 at a total construction cost of \$1,460,000,000.

1 (B) LIMITATION ON AVAILABLE FUNDS.—

2 Of the amounts made available under subpara-  
 3 graph (A), not more than \$35,000,000 for each  
 4 fiscal year shall be available for land acquisition  
 5 under paragraph (2)(D).

6 (4) IMPLEMENTATION REPORTS.—

7 (A) IN GENERAL.—Not later than June  
 8 30, 2005, and every 4 years thereafter, the Sec-  
 9 retary shall submit to the Committee on Envi-  
 10 ronment and Public Works of the Senate and  
 11 the Committee on Transportation and Infra-  
 12 structure of the House of Representatives an  
 13 implementation report that—

14 (i) includes baselines, benchmarks,  
 15 goals, and priorities for ecosystem restora-  
 16 tion projects; and

17 (ii) measures the progress in meeting  
 18 the goals.

19 (B) ADVISORY PANEL.—

20 (i) IN GENERAL.—The Secretary shall  
 21 appoint and convene an advisory panel to  
 22 provide independent guidance in the devel-  
 23 opment of each implementation report  
 24 under subparagraph (A).

1 (ii) PANELISTS.—Panelists shall in-  
2 clude—

3 (I) 1 representative of each of  
4 the State resource agencies (or a des-  
5 ignee of the Governor of the State)  
6 from each of the States of Illinois,  
7 Iowa, Minnesota, Missouri, and Wis-  
8 consin;

9 (II) 1 representative of the De-  
10 partment of Agriculture;

11 (III) 1 representative of the De-  
12 partment of Transportation;

13 (IV) 1 representative of the  
14 United States Geological Survey;

15 (V) 1 representative of the  
16 United States Fish and Wildlife Serv-  
17 ice;

18 (VI) 1 representative of the Envi-  
19 ronmental Protection Agency;

20 (VII) 1 representative of affected  
21 landowners;

22 (VIII) 2 representatives of con-  
23 servation and environmental advocacy  
24 groups; and

1 (IX) 2 representatives of agri-  
2 culture and industry advocacy groups.

3 (iii) CO-CHAIRPERSONS.—The Sec-  
4 retary and the Secretary of the Interior  
5 shall serve as co-chairpersons of the advi-  
6 sory panel.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—Except  
8 as otherwise provided in this section—

9 (1) there are authorized to be appropriated  
10 such sums as are necessary to carry out this section  
11 for fiscal years 2006 through 2020; and

12 (2) after fiscal year 2020—

13 (A) funds that have been made available  
14 under this section, but have not been expended,  
15 may be expended; and

16 (B) funds that have been authorized to be  
17 appropriated under this section, but have not  
18 been made available, may be made available.

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